

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2354 of 1998

to

FIRST APPEAL No 2368 of 1998

with

CIVIL REVISION APPLICATION No 800 and 801 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NEW INDIA ASSURANCE CO.LTD.

Versus

JAYRAMBHAI FULABHAI VACHANI SURAGPARA

Appearance:

1. First Appeal No. 2354 to 2368 of 1998
MR AJAY R MEHTA for Petitioner
None present for Respondent No. 1, 2, 3
2. Civil Revision Application No 800 and 801 of 1997
MR SEJAL MANDAVIA for Applicant
MR AJAY MEHTA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/09/98

ORAL JUDGEMENT

1. These first appeals are directed against the interim award of the Motor Accident Claims Tribunal (Main), Junagadh in M.A.C. Petitions under which the appellant and respondents No.2 and 3 were directed jointly and severally to pay Rs.50,000/- with running interest at the rate of 12% p.a. from the date of application till realisation to the claimants respondents as interim compensation under the provisions of section 140 of the Motor Vehicles Act, 1988. The Tribunal has further directed that out of this amount awarded by way of interim compensation after deducting the requisite court fees, if any, Rs.10,000/may be invested in a nationalised bank for a period of five years in the fixed deposit in the name of claimants-respondents and rest of the amount be distributed amongst claimants-respondents in equal share in each case.

2. These appeals were admitted and this Court on civil applications filed by the appellant-insurance company has granted interim relief in terms that the execution of the interim award is stayed on the condition that the appellant herein deposits the entire awarded amount in the Tribunal within six weeks from the date of the order. This Court has further ordered that the amount deposited by the appellant in this Case shall be transmitted to the Tribunal. It is not in dispute that in pursuance of the interim order passed by this Court in these appeals on the civil applications filed therein by the appellant, the appellant has deposited the entire awarded amount in the Tribunal.

3. Manifold contentions have been raised by the learned counsel for the appellant challenging the impugned award of the Tribunal under which interim compensation of Rs.50,000/- together with interest thereon was ordered to be paid by the appellant-insurance company, owner and driver jointly and severally to the claimants-respondents.

4. In C.R.A. Nos.800/97 and 801/97 which arise also from the same accident from which the first appeals have arisen, the learned tribunal has not granted the interim compensation to the claimant-applicant and the Tribunal has ordered for early disposal of the main claim application itself. Aggrieved of that order, the claimants-applicants filed the civil revision applications before this Court.

5. Learned counsel for the applicants in these

C.R.As. contended that the very purpose and object of provisions of section 140 of the M.V. Act, 1988 have been frustrated by the Tribunal in these proceedings where the applications filed by the claimants-applicants for the award of interim compensation in the manner and fashion in which it has been decided under the impugned order. The purpose and object of enacting the benevolent provision as contained in section 140 of the M.V. Act, 1988 is to provide immediate financial assistance or help to the persons who sustained injuries or to the dependents of the bread earner of the family who died as a result of motor vehicular accident. At the same time, this Court cannot be oblivious of the facts and circumstances that the amount of compensation awarded in the case of motor accident claims, the amount has to be invested in long term deposit so that the claimants may get the benefits of the interest thereon. In case this amount is disbursed to the claimants then the possibility of misuse of that amount or taking of this amount by the persons on different pretext cannot be overruled. Similarly, this amount which may only be a solace for the death of the bread earner may be spent on many other things which may not be of more important and necessary than the bread and other bare necessities of life. To fulfill that object the substantial amount of interim compensation should be initially deposited in long term F.D.Rs.. Under section 140 of the M.V. Act, 1988 for the death of the bread earner of the family, the dependents are to be paid Rs.50,000/- by way of interim compensation. Rs.50,000/- is not a small amount. In case this amount of Rs.50,000/- awarded by way of interim compensation by the Tribunal is permitted to be taken by the claimants or substantial amount thereof is ordered to be paid to them, the misuse of this amount or use of this amount by the claimants for the purpose other than the bare necessities of life cannot be overruled. In the matter of amount which has been awarded by the Tribunal by way of interim compensation under the provisions of section 140 of the M.V. Act, 1988, all care should be taken by the Tribunal to see that this amount in any manner does not go to the hands of the other persons or the claimants may not use it for the purpose other than the bare necessities of life. In this case I am really shocked to see that out of Rs.50,000/-, the Tribunal has ordered for the payment of Rs.40,000/- to the claimants and only Rs.10,000/- was ordered to be invested in long term F.D.R.. That approach of the Tribunal appears to be not justified and reasonable. It is true that it is only an amount of interim compensation but in a given case it may not be a small amount.

6. The learned counsel for the appellant very fairly submitted that in case this Court directs the Tribunal to keep the amount of Rs.50,000/- together with interest payable thereon in pursuance of the impugned award in long term F.D.R., the monthly interest accrued on this amount be paid to the claimants, he may not press these appeals. As I have observed in the earlier part of the judgment that out of this amount of Rs.50,000/-, the substantial amount should have been retained by the Tribunal with it in the long term F.D.R. otherwise the very purpose and object of section 140 of the M.V. Act, 1988 will be frustrated. To fulfill the object and purpose of section 140 of the M.V. Act, I consider it to be appropriate that whole of the amount of Rs.50,000/together with interest thereon be invested in the long term F.D.R. and the monthly interest accrued thereon may be paid to the claimants-respondents.

7. In the civil revision applications, the grievance of the claimant-applicant is understandable but in view of the fact that this Court has ordered in other cases also to keep the amount of interim compensation together with interest as awarded therein in the long term F.D.R., no useful purpose would be served to pass the award of interim compensation in these matters. In these matters, the Tribunal has rightly observed that the main claim petitions may itself be decided at an early date.

8. So the interest of justice will be served in case the Tribunal is directed in these matters to the decide the main claim applications out of which these appeals and civil revision applications arises within six months from the date of receipt of writ of this order.

9. In the result, all these appeals are dismissed as withdrawn however subject to direction for early disposal of M.A.C.Ps. The civil revision applications are dismissed subject to the direction as given. In case the amount deposited by the appellant in this Court is not remitted so far to the Tribunal by the office of this Court then the same may be forthwith remitted to the Tribunal. However, it is hereby directed that the Motor Accident Claims Tribunal (Main) Junagadh shall keep the amount of interim compensation together with interest as awarded in each case in the long term F.D.R. and monthly interest accrued thereon be paid to the claimants-respondents. The claim applications out of which these first appeals and revision applications have arisen be disposed of finally within six months from the date of receipt of writ of this order.

zgs/-